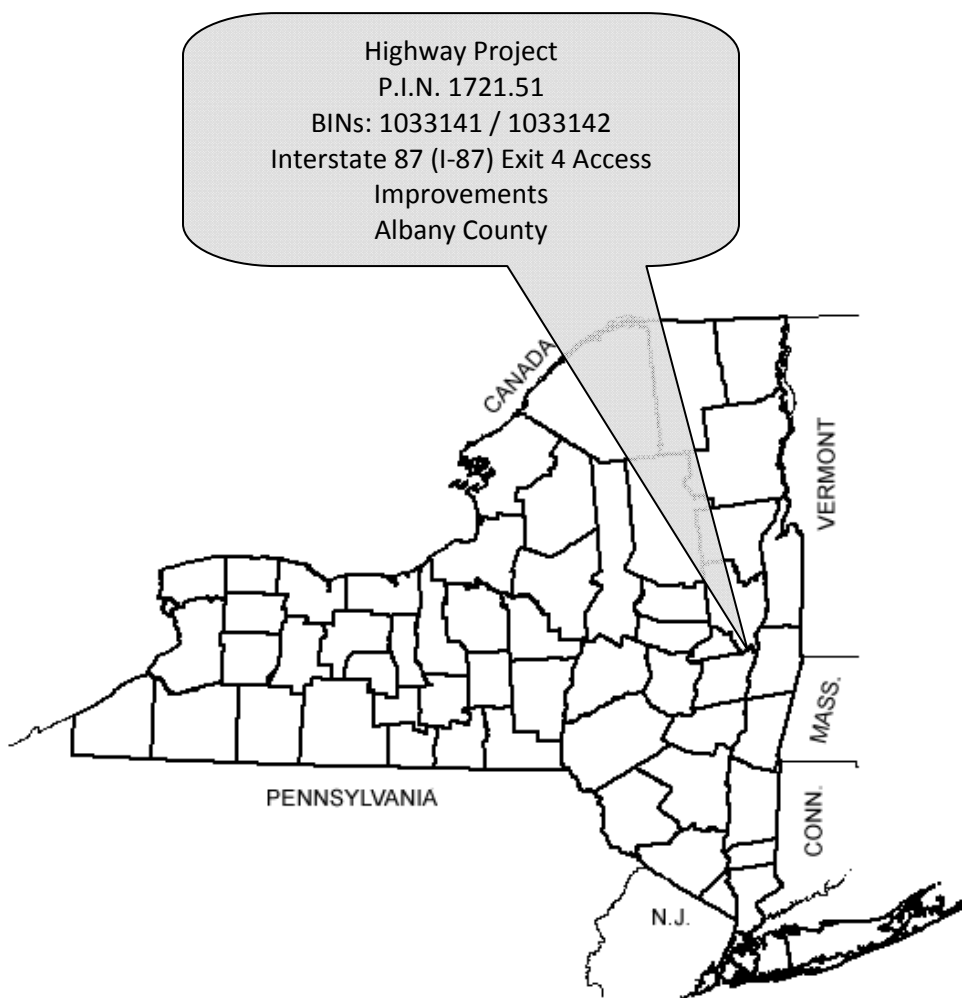


# TRANSPORTATION

## ***DRAFT DESIGN REPORT / ENVIRONMENTAL IMPACT STATEMENT***

**Appendix H – Phase I/II Archeological Survey Reports**  
**January 2014**



U.S. Department of Transportation Federal Highway Administration

NEW YORK STATE DEPARTMENT OF TRANSPORTATION  
ANDREW M. CUOMO, Governor

JOAN MCDONALD, Commissioner

**PROPOSED**





## List of Appendix Documents:

- **Draft Report: Phase I Archeological Investigation**  
Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121  
December 2011  
Status: REDACTED
- **Phase II Archeological Site Examination**  
The Engel Farm Precontact Archeological Site – A00104.000605  
Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121  
October 2012  
Status: REDACTED
- **Addendum Phase IB Archeological Field Reconnaissance**  
Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121  
February 2013  
Status: REDACTED
- **Wetland Mitigation Area Site 1 Archeological Screening and Letter Report**  
PIN 1721.51.121, I-87 Exit 4 Airport Connector  
July 2013  
Status: REDACTED
- **Phase IB Archeological Field Reconnaissance**  
Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121  
Person Property Wetland Mitigation  
October 2013  
Status: REDACTED
- **Finding Document**  
Status: Attachments REDACTED
- **Draft Memorandum of Agreement (MOA)**
- **Agency Correspondence**  
01/16/2014: FHWA Adverse Effect determination  
01/16/2014: FHWA documentation of tribal coordination  
12/09/2013: SHPO concurrence with finding of Adverse Effect  
09/18/2013: NYSDOT R1 Geotechnical Memo – Site Evaluation of Proposed Embankment  
Locations for Ramps A and C (Attachments REDACTED)



**Interstate 87 (I-87) Exit 4 Access Improvements  
PIN 1721.51.121  
Finding Document**



**REVISED FINDING DOCUMENTATION**  
**PIN 1721.51.121**  
**Interstate 87, Exit 3 / 4**  
**Airport Access Improvements**  
**Town of Colonie, Albany County**  
**State of New York**  
**NY SHPO Project Review ID: 07PR05536**

**December 4, 2013**

## **1. Project Description**

### **The Project: Description and History**

The proposed Federally-funded project is a significant long-term capital investment linking two of the major transportation facilities of New York State's Albany Capital District: Interstate 87 and the Albany International Airport.

The project area is located in the Town of Colonie, which is adjacent to the City of Albany. The general topography is flat to gently rolling. Along Wolf Road, to the east of Interstate 87 (I-87), is a densely developed suburban commercial area, characterized by a mix of office buildings, retail plazas, restaurants, hotels, and gas stations, each with individual parking lots. Further east of Wolf Road, outside of the project area, is typical suburban residential development, primarily single-family homes with a scattering of multi-family homes and low-rise apartment complexes. The west side of I-87, along Albany-Shaker Road, is rolling grass, scrub and farm fields. This portion of the project area was farmed for generations by the Engel family, although the Engel family discontinued their farming business in 2010.

The project proposes to improve access between Interstate 87 and the Albany International Airport, and between I-87 and Wolf Road. Safety and traffic operations will be improved at Exit 4. The project will be designed to not adversely impact I-87 mainline operations between Exit 2 and Exit 5 and to allow for future long-term improvements to I-87. Improving system connectivity between the existing pedestrian and bicycle facilities on Wolf Road and the facilities constructed as part of the Albany/Watervliet-Shaker Road project will also be considered during the evaluation of design alternatives.

Starting in the late 1970's and continuing into the early 1990's, a number of studies have looked at existing and future traffic operations in the project area. Each of these studies concluded that the existing I-87 interchanges would have difficulty handling the growth in traffic caused by expected increases in airport activity and continued economic development in the area without improvement to I-87 access. Based on these conclusions, the proposed project was added to the New York State Department of Transportation (NYSDOT) capital program.

In 2000, NYSDOT initiated the project scoping process to develop project needs and objectives, and evaluate project issues, elements and initiatives which would have an effect on project scope, cost and schedule. This process included traffic data collection, conceptual alternative development, and development of over 50 conceptual design alternatives. Over the following 12 years, additional traffic studies and growth forecasts, further alternatives analysis, and input from project stakeholders have gradually winnowed the wide range of alternatives down to two alternatives: the Diamond Alternative and the Flyover Alternative.

Through 2012 and 2013, both the Diamond Alternative and Flyover Alternative were analyzed in great detail. When these final two alternatives were compared against each other, the Diamond Alternative proposed greater impacts to wetlands, more real-estate acquisition, the relocation of one residence and two active businesses, and overall higher construction costs and long-term maintenance costs than the

Flyover Alternative. Additionally, since the Diamond Alternative is not the least environmentally-damaging reasonable alternative, NYSDOT faced significant challenges to obtaining permits for construction from the regulatory agencies involved, the New York State Department of Conservation and the U. S. Army Corps of Engineers. Ultimately, in November 2013, based on a balanced consideration of the impacts of these two alternatives, NYSDOT and the Federal Highway Administration (FHWA) jointly concluded that the Diamond Alternative is not a reasonable alternative, and the Diamond Alternative was dismissed from further consideration.

### **Why is the Project Needed?**

The proposed transportation project has been initiated to address the following needs within the Interstate 87 Exit 4 area:

#### Intersection Operating Conditions

The project is necessary to provide improved access between Interstate 87 (I-87), Wolf Road, and the Albany International Airport. Within the project study area, six of the nine intersections evaluated have operational delays during the peak hours. These poor operations will continue to deteriorate in the future.

#### Safety

The project is necessary to address safety concerns within the project study area. Safety concerns include existing I-87 Northbound exit ramp queuing back onto I-87, and operational and weave issues at the I-87 Southbound Service Road between Exit 5 and Exit 4. Three intersections exceed the statewide average crash rate for similar transportation facilities.

#### Structural Deficiencies

The existing bridges carrying Interstate 87 over Albany-Shaker Road (Bridge Identification Numbers 1033141 and 1033142) are over 50 years old. These bridges are the only remaining bridges on Interstate 87 in Albany County dating from the original construction of the Interstate. The sufficiency ratings and bridge inspection for the bridges indicate that the bridges' structural deficiencies need to be addressed. NYSDOT has installed temporary steel supports under the existing piers to partially address the deficient pier conditions.

#### Access

The existing access limits the movement of goods between Interstate 87, the Albany International Airport, and the commercial corridor of Wolf Road, as well as the mobility of Park n' Ride and Airport shuttles between Wolf Road, Old Wolf Road, and the airport.

#### Land Use and Economic Growth

The existing operational delays at intersections in the Exit 4 area inhibit mobility within the project area.

### **Objectives of the Project**

The following Primary Project Objectives were developed to recognize the overall goal of improving mobility and economic development for the Capital District.

- (1) Improve access between I-87 and the Albany International Airport without precluding future, long-term I-87 mainline improvements, and without impacting I-87 mainline operations between Exit 2 and Exit 5.
- (2) Improve access between I-87 and Wolf Road without precluding future, long-term I-87 mainline improvements, and without impacting I-87 mainline operations between Exit 2 and Exit 5.
- (3) Improve intersection operating conditions in the existing Exit 4 area and address safety concerns in the areas that exceed the statewide average accident crash rate for similar transportation facilities.
- (4) Eliminate the structural deficiencies associated with the I-87 northbound and southbound bridges over Albany-Shaker Road by providing bridges with a 50-year minimum service life.

In addition to the Primary Project Objectives, the following Secondary Objective was considered during the evaluation of design alternatives.



- (1) Improve system connectivity between the existing pedestrian/bicycle facilities on Wolf Road and the facilities constructed as part of the Albany/Watervliet-Shaker Road project.

The following considerations are also included in the evaluation of alternatives.

- (1) Impacts to existing sensitive environmental and cultural features in the project area.
- (2) Impacts to active agricultural land in the project area.
- (3) Impacts to viable commercial enterprises and other social and economic features in the project area.
- (4) A gateway effect between I-87 and the Albany International Airport is desired.
- (5) A pedestrian-friendly environment within the project area is desired.
- (6) Application of transportation system management, transportation demand management, and transit enhancements.
- (7) Project benefits versus cost.

### **Alternative Analysis**

More than 50 alternatives were evaluated on a conceptual level for the proposed project. During the long process of preliminary alternative analysis, many factors were considered, including:

- the impacts to the long-operating Engel Farm;
- potential impacts to the forested wetlands toward Ann Lee Pond;
- locations of, and potential impacts to, vernal pools and wet meadows;
- locations of, and potential impacts to, known historic sites and structures;
- traffic patterns, traffic levels and forecasts;
- interference with the Albany International Airport's Runway Protection Zone as defined by the Federal Aviation Administration (FAA); and
- Interstate design parameters for I-87 (the Northway.)

In addition to comparison of the alternatives to the purpose and need statement, a review of the alternatives by the project stakeholders resulted in identification of one feasible alternative for consideration in the Environmental Impact Statement (EIS). This alternative, along with the No-Build Alternative, is described below.

### **No-Build Alternative**

This alternative provides for the continued maintenance of the existing highway by the NYSDOT maintenance forces with no capital funds being expended.

### **Alternative 1: Flyover Alternative**

The Flyover Alternative proposes construction of new ramps that will "fly over" Interstate 87 to connect Interstate 87, Wolf Road and Albany-Shaker Road. The area of potential effects (APE) associated with the Flyover Alternative includes the area in which direct and indirect effects may occur as a result of proposed improvements including:

- construction of new ramps to connect I-87 northbound and southbound to Albany-Shaker Road approximately 1000 ft west of the Albany-Shaker Road / Old Wolf Road intersection, and
- construction of a new ramp to connect Albany-Shaker Road, approximately 1000 ft west of the Albany-Shaker Road / Old Wolf Road intersection, to I-87 southbound.
- replacement of the I-87 bridges over Albany- Shaker Road;
- removal of the existing Exit 4 southbound Exit Ramp;
- removal of the existing southbound Collector-Distributor road between Exit 5 and Exit 4;
- removal of the Exit 4 southbound Entrance Ramp;
- replacement of the existing Exit 5 southbound Entrance Ramp;
- pavement widening on I-87 northbound to construct an auxiliary lane between the existing Exit 4 northbound Exit Ramp and Exit 5 northbound Exit Ramp;
- pavement widening and restriping for additional turn lanes and medians on Albany-Shaker Road; and
- restriping on the existing Exit 4 northbound Exit Ramp.

The Area of Potential Effect (APE) for the Flyover Alternative is cross-shaped, with the southwest-to-northeast arm following Interstate 87, and the southeast-to-northwest arm following Albany-Shaker Road. The proposed flyover ramps result in a “bulge” to the APE on the east side of I-87, approximately 2,500 ft south of the I-87/Albany-Shaker Road bridges. On the west side of I-87, the ramps make a “jug handle” shaped section of project area, where the exit roadway extends southwest from Albany-Shaker Road and then curves sharply south for the flyover bridge over I-87. ((Please refer to Figure 3A attached.))

Along Interstate 87, the southwest terminus is approximately 1,800 ft north of the bridges carrying I-87 over Sand Creek Road. The I-87 northeast terminus is the bridges carrying I-87 over NYS Route 155, Watervliet-Shaker Road. The length along I-87 is approximately 1.8 miles. At the approximate midpoint of the I-87 arm are the bridges carrying I-87 over Albany-Shaker Road, Bridge Identification Numbers 1033141 and 1033142; these bridges are at the end of their service life, and will be replaced under Phase 1 of this project. The Albany-Shaker Road portion of the project area extends a distance of approximately 1.3 miles. The southeast terminus is approximately 600 feet southeast of the I-87/Albany-Shaker Road bridges, ending near the Albany-Shaker Road – Old Maxwell Road intersection. The APE follows Albany-Shaker Road, extending approximately 1.2 miles northwest of I-87/Albany-Shaker Road bridges, ending at the south entrance to Albany International Airport. The width of the APE along both I-87 and Albany-Shaker Road generally follows the highway boundaries of both travelways; this width is approximately 500 ft along I-87, and varies in width between 125 ft and 300 ft along Albany-Shaker Road. At the northeast end of the project area, the APE includes the Collector-Distributor Road which parallels I-87 to the west, which further widens the APE to approximately 800 ft in this northeastern-most section.

The proposed ramps which connect Albany-Shaker Road and I-87 intersect Albany-Shaker Road approximately 1,100 ft west of the I-87/Albany-Shaker Road bridges. The combined ramps proceed southwesterly at a rough parallel to I-87 for approximately 1000 ft, and then the ramps curve strongly south, with the center ramp (Ramp A) crossing I-87 on the flyover bridge, the southern ramp (Ramp B) curving southward to meet I-87 southbound, and the northern ramp (Ramp A) continuing to curve in a half-circle to meet I-87 southbound. The width of the APE for the ramps is approximately 400 ft at the Albany-Shaker Road intersection, and flares wider as the ramps diverge as they approach I-87 to a width of approximately 1,200 ft along I-87. In late 2012, the proposed alignment of the ramps and their connection with Albany-Shaker Road on the west side of I-87 was altered, in response to concerns from the Federal Aviation Administration (FAA) that the connector road was located within the FAA’s “Runway Protection Zone” for Albany International Airport. This alteration shifted the APE for the ramps approximately 200’ eastward toward I-87. On the east side of I-87, where Ramp A (middle ramp leading to flyover bridge) connects to I-87, the APE varies in width, expanding from the typical 500 ft width of I-87 to approximately 800 ft at the widest point of the “bulge.” The medians of I-87 were included in the APE, as well as the area between I-87 southbound lanes and the Collector-Distributor Road.

Also included in the APE is a proposed wetland mitigation site located on the E.T. Person parcel. The Person parcel is located at the end of Sunset Boulevard, northwest of I-87, and borders Shakers Creek.

The Area of Potential Effect was determined by the area needed for construction of the Flyover Alternative, including embankment at a sufficient height with appropriate side-slope grades, to support the flyover and exit/entrance ramps, area for staging material, equipment and personnel, and area for creation of required compensatory wetlands.

The Flyover Alternative improves operating conditions at the majority of the intersections in the I-87 Exit 4 area and reduces the travel time for major routes by 25%. This alternative also addresses safety concerns by diverting traffic away from the existing intersections that have crash rates which exceed the statewide average for similar facilities.

29.70 acres of right-of-way acquisition is necessary from 15 parcels under the Flyover Alternative. The proposed acquisitions associated with the Flyover Alternative predominantly affect properties on Albany-Shaker Road. Five (5) of the impacted parcels are owned by the Albany County Airport Authority and are identified for uses including residential, parking lot, commercial, air transport and vacant farmland. 16.60 acres of the total 29.70 acres will be acquired strictly for wetland preservation, restoration, and creation

purposes. One residential property on Albany-Shaker Road will be acquired in full, and will require relocation.

The Flyover Alternative will affect a total of 1.96 acres of wetlands, comprised of 1.83 acres of shallow emergent marsh and wet meadow, and 0.13 acres of palustrine forest. Eight (8) of the 17 wetland areas that would be affected are directly influenced by the I-87 corridor, and, although they inherently provide some level of wildlife habitat, they primarily provide drainage for the existent roadway network. Impacts to the remaining wetland areas bear more significance, because they not only provide wildlife habitat and other functions and services, but are contiguous with or part of the greater Shaker Creek/Ann Lee Pond wetland/stream complex. Based on typically accepted replacement ratio guidance from USACE, a total of 2.09 acres of compensatory wetland creation is proposed is required for the Flyover Alternative, broken down as follows: emergent marsh and wet meadow impact = 1.83 acres at 1:1 replacement = 1.83 acres compensation, and forested wetland impact = 0.13 acres at 2:1 replacement = 0.26 acres compensation.

To address these compensatory wetland requirements, NYSDOT has been working with Mr. E. Person, owner of a parcel located at 200 Sunset Boulevard. NYSDOT proposes to acquire approximately 16.60 acres of this total 20.80-acre parcel (200 Sunset Blvd), in the areas outside of the existing developed parking areas, for preservation and wetland enhancement, restoration and/or creation. Acquisition of the 16.60 acres parcel would protect existing wetlands and Shaker Creek from commercial and/or residential development pressure. Additionally, within the 16.60 acres that NYSDOT acquires, NYSDOT would restore or create 2.10 acres of wetlands. The areas of potential wetland enhancement, restoration and/or creation are located around the periphery of the existing commercial business lot at 200 Sunset Blvd. The remaining developed area of the parcel (4.20 acres) would be retained by Mr. Person so he can continue his current level of business functions.

In conclusion, the environmental impacts of the Flyover Alternative include:

- 29.70 acres of right-of-way acquisition from 15 properties.
- 1.96 acres of wetland impacts, requiring 2.09 acres of compensatory wetland creation. .
- 1 archaeological site impacted, the Engel Farm Precontact Archaeological Site.

Total estimated cost of the Flyover Alternative is \$47.51 million.

Please see the chart on the following page for a summary of the Flyover Alternative.

### **Proposed Phases of the Project**

The project will be split into two separate phases for construction.

Project Phase 1 proposes the replacement of the existing bridges carrying Interstate 87 over Albany-Shaker Road (Bridge Identification Numbers 1033141 and 1033142). The replacement of the bridges cannot be separated out from the larger project since the design of the I-87 over Albany-Shaker Road bridges is directly influenced by the overall plan for the interchange reconstruction. The Phase 1 construction work is tentatively scheduled for letting in 2014 and construction in late 2014.

Project Phase 2 proposes the new interchange construction, including the acquisition of real property along Wolf and Albany-Shaker Road and throughout the project area, and construction of compensatory mitigation wetlands. The Phase 2 construction work is tentatively scheduled for letting in Spring 2019 and construction in 2019.

## 2. Steps Taken to Identify Historic Properties

Cultural Resources Surveys and investigations have been conducted for this project by the New York State Museum in Albany, NY, and by Hartgen Archaeological Associates, Inc., in Rensselaer, NY. Four reports have been prepared in the period of 2000 through 2013. All of the reports were submitted to the New York State Office of Parks, Recreation, and Historic Preservation (NYS OPRHP), functioning as the New York State Historic Preservation Office (SHPO) for the Section 106 review process. Prior to 2001, the SHPO provided correspondence regarding review of the reports, which include agreement or disagreement with the findings and recommendations of the submission, including eligibility for the National Register of Historic Places. In accordance with new procedures adopted in 2001, failure of the SHPO to respond after 45 days constitutes SHPO's agreement with the findings and recommendations of the submittal.

A **Cultural Resources Pre-Reconnaissance Survey Report** was performed by the New York State Museum for the subject project. The title of the report is *Cultural Resources Pre-Reconnaissance Survey, Program Year 2000/2001, of PIN 1721.51.121, New Construction of a Connector Exit between I-87 and Wolf Road & I-87 and the Airport with Potential Modifications to Exit 4 (BIN 1-03314-1, 1-03314-2, 1-03455-1 & 1-03455-2), Town of Colonie (MCD 00104), Albany, New York*, and it was authored by Benjamin A. Kahn, BA and Joseph Sopko, MA. The report was issued in October 2000.

The New York State Historic Preservation Office (SHPO) responded by letter dated November 20, 2000, stating that "the SHPO approves the Pre-Reconnaissance Survey Report and concurs with its recommendations."

A **Phase I Archaeological Investigation** was conducted by Hartgen Archaeological Associates, Inc. for the subject project. The title of the report is *Phase I Archaeological Investigation, Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121. Interstate 87 (Northway), Wolf Road, Albany-Shaker Road, Town of Colonie, Albany County, New York*. It was authored by Corey McQuinn. The report was issued in December 2011.

No response was received from SHPO.

A **Phase II Archaeological Site Examination** was conducted by Hartgen Archaeological Associates, Inc. for the subject project. The title of the report is *Phase II Archaeological Site Examination, the Engel Farm Precontact Archaeological Site – A00104.000605, Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121. Interstate 87, Town of Colonie, Albany County, New York*. It was authored by Corey McQuinn. The report was issued in October 2012.

No response was received from SHPO.

A **Phase IB Archaeological Field Reconnaissance** was conducted by Hartgen Archaeological Associates, Inc. for the subject project. The title of the report is *Phase IB Archaeological Field Reconnaissance, Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121. Person Property Wetland Mitigation, Sunset Boulevard, Town of Colonie, Albany County, New York*. It was authored by Lori J. Blair and Corey McQuinn. The report was issued in October 2013..

This report is submitted for concurrent review with this Revised Finding Documentation.

Flyover Alternative Summary of Costs, Benefits, and Impacts	
Criteria	Flyover Alternative
<b>Are the Project Goals and Objectives Met?</b>	
1. Improve access between I-87 and the Albany International Airport without precluding future, long-term I-87 mainline improvements, and without impacting I-87 mainline operations between Exit 2 and Exit 5.	Yes
2. Improve access between I-87 and Wolf Road without precluding future, long-term I-87 mainline improvements, and without impacting I-87 mainline operations between Exit 2 and Exit 5.	Yes
3. Improve intersection operating conditions in the existing Exit 4 area and address safety concerns in the areas that exceed the statewide average accident crash rate for similar transportation facilities.	Yes
4. Eliminate the structural deficiencies associated with the I-87 northbound and southbound bridges over Albany-Shaker Road by providing bridges with a 50-year minimum service life.	Yes
5. Improve system connectivity between the existing pedestrian/bicycle facilities on Wolf Road and the facilities constructed as part of the Albany/Watervliet-Shaker Road project.	Yes
<b>Cost</b>	
Cost in 2013 dollars [millions]	
Total Project Cost – Phase 1, Replacement of I-87 over Albany-Shaker Road Bridges	\$ 13.53
Right-Of-Way Costs – Phase 1, Replacement of I-87 over Albany-Shaker Road Bridges	\$ 0.00
Total Project Cost – Phase 2, New Interchange Construction	\$ 31.38
Right-Of-Way Costs – Phase 2, New Interchange Construction	\$ 2.60
<b>Total Cost</b>	<b>\$ 47.51</b>
<b>Qualitative Benefits</b>	
Improved Access Between I-87 and the airport	Yes
Improved Access Between I-87 and Wolf Road	Yes
Improved pedestrian/bicycle system connectivity	Yes
<b>Environmental , Social, and Economic Impacts</b>	
Number of Real Property Parcels Affected	15 parcels
Right-of-Way Land Area Required (acres)	29.70 acres
Displacements and Relocations	1(Residential)
Potential Loss of Jobs (due to displacements)	No
Loss of Tax Base (acres of privately owned land)	29.70 acres
Impacts to Historic Resources	1 site affected, the Engel Farm Precontact Archaeological Site
Direct Wetland Impacts (acres)	1.96 acres
Wetland Mitigation Area Required (acres)	2.09 acres
Wetland Mitigation Area Location	16.60 Acres of the E. T. Person parcel at 200 Sunset Blvd, of which 2.10 acres will include restored or created wetlands.
Stream Impacts (linear feet)	474 linear feet
Open Water Impacts (acres)	0.13 acres



### 3. Evaluation of Project Impact on Identified Historic Properties

#### Historic Properties that may be Affected by the Project

##### Historic Properties

Wolf-Kemp Cemetery Historic Site. The cemetery is located within an agricultural field about 61 m (200 ft) north of the southbound lanes of I-87. The cemetery occupies a low knoll; it is visible from the highway between Albany-Shaker Road to the northeast and Sand Creek Road to the southwest. This cemetery is associated with the Wolf, Kemp, and Case families, who owned the farmland and lived in a farmstead on Wolf Road where the Homewood Suites Hotel is now located. The Wolf-Kemp cemetery has headstones dating to as early as 1811, possibly earlier, through the last quarter of the nineteenth century, indicating graves of at least 17 individuals. SHPO has indicated that the Wolf-Kemp Cemetery is eligible for the National Register of Historic Places. SHPO has also stated that due to the assumed presence of human remains, SHPO strongly recommends that the Wolf-Kemp Cemetery is avoided.

##### Archaeological Sites

Engel Farm Precontact Archaeological Site. The site is located within an agricultural field north-west of I-87 and about 107 m (350 ft) east of the Wolf-Kemp Cemetery. Material remains revealed through Phase I and Phase II testing consist of fire-cracked rock and chert flakes, some utilized or scrapers, and debitage. The site is identified as a camp/workshop. As a result of Phase I and Phase II archaeological investigations, the Engel Farm site has been determined eligible for the National Register of Historic Places under Criterion D, as it likely bears additional information valuable to our understanding of Archaic period sites in the Northeast, and more specifically, the pre-contact use of the Pine Bush.

Four other potentially eligible historic archaeological sites, the Desmond Historic Archaeological Site, Exit 5 North Historic Archaeological Site, Exit 5 South Historic Archaeological Site, and the Stickley Historic Archaeological Site were identified in the Phase I Archaeological investigation (2011). All four sites are located within the Area of Potential Effect of the Flyover Alternative.

Desmond Historic Archaeological Site. The Desmond Site is in front of the house adjacent to the Desmond Hotel on Albany-Shaker Road, approximately 200 ft west of the I-87/Albany-Shaker Road Bridges. The site appears to be a sheet midden deeply buried by modern fill; the artifacts found included bottle glass, whiteware, brick, nails, and window glass. This section of APE was included to allow for potential widening of Albany-Shaker Road. However, design refinements have indicated that any widening in this location will not extend far enough to affect the Desmond Site; therefore, the Desmond Site will be avoided.

Exit 5 North Historic Archaeological Site and Exit 5 South Historic Archaeological Site. Both Exit 5 sites are located in the highway median between the I-87 southbound lanes and the Collector-Distributor road which extends from Exit 5 to connect with Old Wolf Road. Based on historic maps, both Exit 5 sites are in previously unsettled areas. Little is known about the sites, although the artifacts recovered from each – ceramic fragments, faunal bones, and shells - suggest that the sites may be surface dumps associated with neighboring farms. No road construction is proposed for either location, although the median may be used for either construction staging and/or compensatory wetland mitigation. If the space is used for either purpose, the sites will be fenced with Temporary Plastic Barrier Fence and thus avoided.

Stickley Historic Archaeological Site. The Stickley Site is in front of the Stickley Furniture store at 151 Wolf Road, on the east side of Wolf Road and south of the Wolf Road-Metro Park Road intersection. The Stickley site is associated with a farmhouse that is documented on historic maps dating from the 1860s through the 1950s; the artifact assemblage consisted of faunal bones, late 19<sup>th</sup> century ceramics, and vessel glass. The Stickley Site is just barely within the APE for the Diamond Alternative, which has been dismissed. The Stickley Site does not fall within the APE for the Flyover Alternative; therefore, the Stickley Site will be avoided.

Based on the feasible project alternative, the Stickley, Desmond, Exit 5 North, and Exit 5 South sites will all be avoided. Since these four sites will be avoided, there was no additional investigation to assess eligibility.

### **Flyover Alternative – Evaluation of Impacts to Historic Properties**

The flyover alternative as designed has elevated ramps, founded on embankment fill, which pass through the location of the Engel Farm Precontact Archaeological Site. NYSDOT, in consultation with the Federal Highway Administration (FHWA), New York State Historic Preservation Office (SHPO), the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe, has explored several strategies to avoid, minimize, or mitigate potential impacts to the Engel Farm Precontact Archaeological Site.

- **Avoidance Measures.**

Redesign Ramp Placement. Moving the ramps of the Flyover Alternative away from the Engel Farm Precontact Archaeological Site was investigated. However, many factors combined to make moving the ramps entirely out of the Site impossible. Shifting the ramps northward along I-87 towards the Desmond Hotel would impact the parking area of the Desmond Hotel, which would require acquisition of property from the Desmond Hotel. The projected increased highway noise from the moving the highway ramps nearer the Desmond Hotel reached unacceptable levels. Shifting the ramp complex southward would require real property acquisitions along Computer Drive West, which parallels I-87 to the east, between I-87 and Wolf Road. Several existing commercial properties would need to be acquired completely, and businesses relocated. This would cause a negative social and economic impact. Additionally, shifting the ramps far enough south along I-87 to avoid the Site resulted in impacts to the Wolf-Kemp Cemetery. Shifting the ramps westward is limited by the Federal Aviation Administration's "Runway Protection Zone" for the Albany International Airport; furthermore, westward ramp alignment adjustment would not avoid the Site. For these reasons, NYSDOT concludes that shifting the ramp alignments as an avoidance option is not feasible or practical.

Bridge over Site. The Flyover Alternative has three ramps which converge and touch down in the general location of the Engel Farm Site; these ramps are referred to (from north to south) Ramps C, A, and B. In March 2013, NYSDOT first proposed bridging only a portion of the Engel Farm Site (Locus 1), with a bridge on Ramp C (northern ramp). However, following the Section 106 consultation meeting on May 14, 2013, NYSDOT explored bridging the entire Engel Farm Precontact Archaeological Site, which requires two bridges: one on Ramp A (middle ramp) and the second on Ramp C (northern ramp) to span the entirety of the Engel Farm Site. Ramp B (southern ramp) would be relocated further south to avoid conflict with the southern edge of the Engel Farm Site, although the ramp location is limited due to the presence of the Wolf-Kemp Cemetery Historic Site. A retaining wall may be placed along part of Ramp C near Engel Farm Site's southern boundary.

NYSDOT explored designing the bridges using both curved and straight steel girders to support the ramp's road surface. The longest bridge, the Ramp C bridge, would span the entire Site with a buffer of 15 feet from the west bridge abutment to the site boundary to account for footing excavation, and a buffer of 35 feet from the east bridge abutment to allow for footing excavation and positive surface drainage away from the Site. Accordingly, the Ramp C bridge requires a girder length of 250 feet to span the entire distance. The 250 ft span length is beyond the practical design length for a single-span bridge, so constructing a single-span bridge of this length presents significant engineering issues. While the girder can be fabricated, it would likely have to be transported in at least 3 sections. The 3 sections of girder would have to be spliced in the field; this requires temporarily supporting the girder during splicing with a steel frame and footing system. This temporary footing system must be level and designed to support the dead weight of the girder. The temporary footing system would require excavation within the boundaries of the Engel Farm Precontact Archaeological Site, causing damage or destruction to buried soils containing cultural deposits. In addition to the fabrication and construction challenges, the deflection of the bridge would not meet allowable standards based on driver comfort. Essentially, the bridge would feel "bouncy" and "unstable" to the driver.



Due to these complexities of bridging the Engel Farm Precontact Archaeological Site in its entirety, NYSDOT concludes that bridging the Site is not feasible or practical. Furthermore, constructing a bridge over the site would not avoid impacts due to the requirement for a temporary footing system.

- **Minimization Measures.**

Fill over Site after Identifying Original Ground Surface. This option proposed to cover the original ground surface of the Engel Farm Site with a geotextile fabric to delineate the surface location, and then place embankment fill over the geotextile to construct the earthwork support for Ramps C, A, and B. Also, in order to carry rainwater and runoff away from the Engel Farm Site, a swale would be graded in the center of the Engel Farm Site, but above the original ground surface in the embankment fill. The swale would direct water to a culvert running underneath Ramp C, to divert water away from the Site.

NYSDOT also proposed the following protective measures to be utilized during the “Fill over Site” construction. Prior to the placement of embankment fill, Temporary Plastic Barrier Fence would be installed to delineate edges of the Engel Farm Site; the fence is intended to improve visibility of the site boundary, and to help prevent construction personnel and equipment from entering the Site accidentally. A conceptual plan for this option is shown in Figures 2 and 2A.

NYSDOT’s preliminary geotechnical evaluation of the location indicated that the area consists of historically farmed soil overgrown by a meadow mat and an area of low woods, adjacent to standing water. The historically farmed soil indicates the likelihood of organic material in the soil to an unknown depth. Organic material in the soil contributes to long-term settling of the structure constructed upon embankment fill over the native soil.

In September 2013, at FHWA’s request, NYSDOT completed a formal geotechnical evaluation of the soils in the area proposed for the embankments that would support Ramps A, B, and C under the Flyover Alternative. The geotechnical evaluation confirmed that the upper level of the soil contains plant material and other organic material. Further, the geotechnical evaluation stated that the top one foot (1’) of soil must be removed prior to placement of the embankment fill. It is standard engineering practice to remove plant material and soil containing organic material before building an embankment, since an embankment constructed atop plant material and organic material continuously settles over time. Additionally, movement of equipment is likely to cause rutting and displacement of up to another ten inches (10”) of subsoil during the fill placement.

In consultation with SHPO and FHWA, NYSDOT concluded that the proposed minimization measures would not ensure protection of the site from impacts during construction due to the removal and/or disturbance of the upper 1’ – 10” of soil, or from potential physical alterations to site conditions after construction.

#### 4. Basis for Recommended Project Findings

The Flyover Alternative proposes the construction of ramps supported by embankment fill in the location of the Engel Farm Precontact Archaeological Site, which causes an unavoidable impact to the Site due to site disturbance from construction. The Flyover Alternative avoids impact to the Wolf-Kemp Cemetery Historic Site. The New York State Department of Transportation has applied the Criteria of Adverse Effect (36 CFR Part 800.5(a)) and determined that the Flyover Alternative, will have an **Adverse Effect** on the Engel Farm Precontact Archaeological Site, an archaeological site eligible for the National Register of Historic Places.

- **Mitigation Measures.**

Phase III Data Recovery with Interpretive Display as Public Outreach Component. NYSDOT proposes mitigation for the “Adverse Effect” in the form of Phase III Data Recovery for the Site, including public dissemination of the information retrieved through Data Recovery. Established procedures will be followed to implement a Data Recovery Plan, in consultation with the SHPO and the Native American Tribal nations. The public outreach portion of the Data Recovery will include an interpretive, museum-quality display. The content, format, and materials of the interpretive display will be determined through continued consultation among FHWA, NYSDOT, SHPO, and the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe. The proposed interpretive display for public dissemination of information is an outcome of consultation, reflecting the interest of the consulting Tribes in learning more about the site, and sharing that information with the tribal members and others.

A Memorandum of Agreement (MOA) is in development to resolve adverse effects, based on consultation among the SHPO, FHWA, NYSDOT, and the three Native American Tribal Nations.

## 5. Public Involvement

### Public Involvement

The following meetings and presentations have been held as efforts to seek the public's input on the project in general:

- October 17, 2005: Project Advisory Committee meeting was held at the Town of Colonie Public Operations Building to brief and solicit feedback from federal and state agencies and local governments on the Conceptual Alternatives Screening document, which contained a summary of 19 conceptual alternatives that were being considered.
- November 21, 2005: Project Advisory Committee meeting was held at the Town of Colonie Public Operations Building to discuss any comments or questions from federal and state agencies and local governments on the Conceptual Alternatives Screening document that was distributed on 10/17/2005.
- October 11, 2007: NEPA scoping meeting was held at the Town of Colonie Public Operations Building to discuss the purpose and need statement and range of alternatives of the project with federal and state agencies and local governments.
- November 26, 2007: NEPA scoping meeting was held at the Sand Creek Middle School Auditorium on 11/26/2007 to discuss the purpose and need statement and range of alternatives of the project with the general public.
- April 2, 2009: An advisory agency scoping meeting was held at the Town of Colonie Public Operations Building to discuss the feasible alternatives which will be considered during preliminary design, review the decision making process, and review the coordination process.
- June 1, 2011: An advisory agency meeting was held at the Town of Colonie Public Operations Building to discuss the feasible alternatives which will be considered for the administrative DEIS.

Once the Draft Environmental Impact Statement is ready for release for public comment, NYSDOT plans to hold a public hearing, anticipated to be in February 2014. The specific date and time is yet to be determined.

### Section 106 Consultation

NYSDOT has consulted with the New York State Historic Preservation Office (SHPO) and the Native American Tribes according to established procedures. Albany County falls within the Area-of-Interest of three Native American Tribes: the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe. As noted in the listing of Cultural Resources investigations (see Section 2 of this document), many cultural resources studies have been completed for this project. In January 2012, NYSDOT provided the Phase I Archaeological Investigation report to SHPO and the three Native American Tribes. NYSDOT staff, as well as representatives from FHWA and primary engineering consultant CHA, Inc., also met with Ms. Sherry White, Tribal Historic Preservation Officer (THPO) for the Stockbridge-Munsee Community Band of Mohican Indians, to visit the Engel Farm Site location in person on January 11, 2012. The 2011 Phase I report included the 2000 Pre-Reconnaissance Study as an appendix. Responses from SHPO and from Tribal Representatives were supportive of continuing with a Phase II Site Examination of the Engel Farm Site.

The Phase II fieldwork and report were completed in November 2012, and NYSDOT distributed the report in November 2012. In December 2012, the alignment of the connector road (in the Diamond Alternative) and the ramps (in the Flyover Alternative) was altered in order to move the roadways out of the "Runway Protection Zone" of Albany International Airport. An Addendum Phase IB study was conducted for these new sections of APE identified after the alignment shift. NYSDOT distributed the Addendum Phase IB study to SHPO and the Native American Tribes in March 2013. In late March 2013, NYSDOT circulated an initial proposal to bridge a portion of the site to all parties.

On May 14, 2013, NYSDOT hosted a Section 106 consultation meeting, with NYSDOT staff, Ms. Sherry White, Tribal Historic Preservation Officer (THPO) for the Stockbridge-Munsee Community Band of Mohican Indians, FHWA staff, and SHPO representatives at the meeting. The THPOs from the Saint Regis Mohawk Tribe and the Delaware Tribe were updated by telephone conversations a few days after

the consultation meeting, and all parties were sent the minutes of the May 14<sup>th</sup> consultation meeting by email.

In July 2013, NYSDOT circulated a “Draft Finding Documentation” to SHPO, FHWA, the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe. The circulation and review of the Draft was intended to share the NYSDOT analysis of potential avoidance measures, reach out to consult with the SHPO, share views of the SHPO with the Tribal Nations, and solicit and obtain the views of each Tribal representative.

Prior to the dismissal of the Diamond Alternative in November 2013, SHPO and all three Native American Tribes had indicated to NYSDOT and FHWA that they would prefer the Diamond Alternative to be progressed, as the Diamond Alternative avoids impact to the Engel Farm Precontact Archaeological Site

However, in light of the fact that the Flyover Alternative is the sole reasonable alternative, the Section 106 consulting parties have communicated the following opinions to NYSDOT regarding the treatment of the Engel Farm Precontact Archaeological Site, which would be affected by the Flyover Alternative.

- **Delaware Tribe:** Dr. Brice Obermeyer, THPO for the Delaware Tribe, stated in a letter dated December 11, 2012, that “We [the Delaware Tribe] concur that the construction will have an adverse effect on the site and concur with the Phase III Data Recovery Plan.”
- **Saint Regis Mohawk Tribe:** Mr. Arnold Printup, THPO for the Saint Regis Mohawk Tribe, indicated in a letter dated April 2, 2013, that the Tribe would prefer strategies that avoided impact to the Site.
- **Stockbridge-Munsee Community Band of Mohican Indians:** Ms. Sherry White, THPO for the Stockbridge-Munsee Community Band of Mohican Indians, stated in an e-mailed letter to FHWA dated August 27, 2013, that “Our tribe makes every effort to work with agencies to find a working solution that will accommodate all parties and issues.” The letter suggested alterations to the plan for Phase III Data Recovery of the Engel Farm Site.

NYSDOT has considered the views of the Native American Tribal Nations in the assessment and resolution of adverse effects. In response to the Tribal Nations’ stated preference for avoidance of the site, NYSDOT has thoroughly analyzed Flyover Alternative avoidance options, and has determined that avoidance is not feasible or practical. In response to the suggestion from the Stockbridge-Munsee Community Band of Mohican Indians that an interpretive display be included as the public outreach part of the Data Recovery, NYSDOT has included the interpretive display.

NYSDOT continues to consult with SHPO and the Native American Tribes, with the goal of reaching consensus regarding mitigation strategies.

## 6. Attachments

- Figure 1: (deleted)
- Figure 2: “Flyover Alternative: Engel Farm Site – Site Impacts” - map
- Figure 3: “Flyover Alternative: Engel Farm Site – Fill Option” – map
- Figure 3A: “Flyover Alternative: Area of Potential effect (APE)” – map
- NYSDOT Geotechnical Evaluation, Sept. 18, 2013 (memo)
- Phase IB Archaeological Field Reconnaissance Report, *Interstate 87 (I-87) Exit 3/4 Access Improvements, PIN 1721.51.121. Person Property Wetland Mitigation, Sunset Boulevard, Town of Colonie, Albany County, New York*. Lori J. Blair and Corey McQuinn, Hartgen Archaeological Associates, Inc. October 2013.

*Revised Finding Documentation composed by T. Thorne, NYSDOT Region 1, 12/4/2013.*

**Interstate 87 (I-87) Exit 4 Access Improvements  
PIN 1721.51.121  
Draft Memorandum of Agreement**



# MEMORANDUM OF AGREEMENT

among

**The Federal Highway Administration  
The New York State Historic Preservation Office  
and  
The New York State Department of Transportation**

**Pursuant to 36 CFR 800**

for

## **RECOVERY OF SIGNIFICANT ARCHAEOLOGICAL INFORMATION**

at the

**Engel Farm Precontact Archaeological Site (OPRHP USN# A00104.000605)**

**NYSDOT Project Identification Number (PIN) 1721.51.121  
Interstate 87: Exit 4 Reconstruction and Airport Access Improvements  
Town of Colonie, Albany County, New York  
NY SHPO PR# 07PR05536**

**WHEREAS**, the **Federal Highway Administration (FHWA)**, in coordination with the **New York State Department of Transportation (NYSDOT)** proposes to undertake the Interstate 87 Exit 4 Reconstruction and Airport Access Improvements, henceforth termed undertaking, and this undertaking is funded by **FHWA**; and

**WHEREAS**, the federally funded undertaking is subject to compliance with Section 106 of the National Historic Preservation Act, as amended, and its implementing regulations (36 CFR Part 800); and

**WHEREAS**, the undertaking consists of the reconfiguration and reconstruction of Exit 4 of Interstate 87 in the Town of Colonie, Albany County, to improve access between Interstate 87 (I-87) and the Albany International Airport, and between I-87 and Wolf Road; the undertaking includes the replacement of the bridges carrying Interstate 87 over Albany-Shaker Road, and the construction of a three new exit or entrance ramps and a new flyover bridge to reconfigure I-87's Exit 4; and

**WHEREAS**, **FHWA**, in coordination with **NYSDOT**, has defined the undertaking's area of potential effect (APE), as the term is defined in 36 CFR 800.16(d), as generally cross-shaped, with the southwest-to-northeast arm following Interstate 87 for 1.8 miles from 1800 ft north of the bridges carrying I-87 over Sand Creek Road to the bridges carrying I-87 over NYS Route 155, and the southeast-to-northwest arm following Albany-Shaker Road for 1.3 miles from the Albany Shaker Road – Old Maxwell Road intersection to the south entrance of the Albany International Airport. On the east side of I-87, the proposed flyover ramps result in a “bulge” to the APE, approximately 2,500 ft south of the I-87/Albany-Shaker Road bridges. On the west side of I-87, the ramps make a “jug handle” shaped section of project area, where the exit roadway extends southwest from Albany-Shaker Road and then curves sharply south for the flyover

bridge over I-87. The APE also includes the 20-acre E.T. Person parcel, located at the end of Sunset Boulevard, northwest of I-87, and bordering Shakers Creek; (please see Figure 1 attached); and

**WHEREAS**, the APE represents the entire area needed for the replacement of the bridges carrying Interstate 87 over Albany-Shaker Road, the construction of three new ramps and a new flyover bridge to reconfigure I-87's Exit 4, the creation of compensatory wetlands, and all related construction activities including equipment access and staging; and

**WHEREAS**, **NYSDOT** and **FHWA** have conducted cultural resource studies and determined pursuant to 36 CFR 800.4(c), and in consultation with the **New York State Historic Preservation Office (SHPO)**, that the following historic properties within or adjacent to the APE are eligible for listing in the National Register of Historic Places:

- **Wolf-Kemp Cemetery Historic Site.**
- **Engel Farm Precontact Archaeological Site.**
- **Desmond Historic Archaeological Site.**
- **Exit 5 North Historic Archaeological Site.**
- **Exit 5 South Historic Archaeological Site.**

**WHEREAS**, the proposed project will avoid impact to the **Wolf-Kemp Cemetery Historic Site**, the **Desmond Historic Archaeological Site**, the **Exit 5 North Historic Archaeological Site**, and the **Exit 5 South Historic Archaeological Site**, since, as design of the project progressed, it became clear that no construction activities are needed in these locations; and

**WHEREAS**, **FHWA** and **NYSDOT**, and in consultation with **SHPO**, have applied the Criteria of Adverse Effect, as defined by 800.5(a)(1), and determined the project will have an adverse effect on the **Engel Farm Precontact Archaeological Site** within the APE, due to unavoidable impacts from construction activities; and

**WHEREAS**, in accordance with Section 101 (d)(6)(B) of the National Historic Preservation Act, **FHWA** and **NYSDOT** have contacted the **Stockbridge-Munsee Community Band of Mohican Indians**, the **Saint Regis Mohawk Tribe**, and the **Delaware Tribe**, the three federally-recognized tribal nations in New York State that have identified aboriginal territory in Albany County, and engaged the tribal nations in consultation to evaluate archaeological properties and to consider measures that would avoid, minimize, or mitigate effects on the National Register Eligible **Engel Farm Precontact Archaeological Site**; and

**WHEREAS**, in accordance with 36 CFR Part 800, the **Federal Highway Administration (FHWA)** and the **New York State Department of Transportation (NYSDOT)** ensure that Conditions 1 through 12 outlined in the **Advisory Council on Historic Preservation's (Council's)** "Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites," and attached as Appendix 1 to this document shall be satisfied; and

**WHEREAS**, **FHWA**, **NYSDOT**, **SHPO**, the **Stockbridge-Munsee Community Band of Mohican Indians**, the **Saint Regis Mohawk Tribe**, and the **Delaware Tribe**



agree that recovery of significant information from the **Engel Farm Precontact Archaeological Site** may be done in accordance with the published guidance; and

**WHEREAS, FHWA, NYSDOT, SHPO, the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe** agree that the **Engel Farm Precontact Archaeological Site** is significant and of value chiefly for the information on prehistory or history that it is likely to yield through archaeological, historical, and scientific methods of information recovery, including archaeological excavation, and

**WHEREAS, FHWA, NYSDOT, SHPO, the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe** agree that it is in the public interest to expend funds to implement this project through the recovery of significant information from the **Engel Farm Precontact Archaeological Site** and mitigate the adverse effects of the project; and

**WHEREAS, based on available information, no human remains, associated or unassociated funerary objects or sacred objects, or objects of cultural patrimony as defined in the Native American Graves Protection and Repatriation Act (25 U.S.C. 3001), are expected to be encountered in the archaeological work;**

**NOW, THEREFORE, FHWA, NYSDOT, SHPO, the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe** agree that execution of this agreement evidences that **FHWA** has taken into account the effects of this undertaking on significant archeological properties and fulfilled its responsibilities under Section 106 of the 1966 National Historic Preservation Act (as amended).

#### **STIPULATIONS:**

**FHWA**, in coordination with **NYSDOT**, shall ensure the following stipulations are carried out:

1. Data Recovery investigations shall be implemented in accordance with the approved Archaeological Data Recovery Plan attached as Appendix 2, accepted by the **NYSDOT, FHWA, SHPO, the Stockbridge-Munsee Community Band of Mohican Indians, the Saint Regis Mohawk Tribe, and the Delaware Tribe**.
  - a. **FHWA** shall invite a representative from the **Stockbridge-Munsee Community Band of Mohican Indians** to attend and observe the fieldwork for the Data Recovery investigations.
  - b. **FHWA** shall reimburse the **Stockbridge-Munsee Community Band of Mohican Indians** for expenses incurred, where such expenses are directly related to the tribal representative's temporary stay in New York for the observation of Data Recovery fieldwork, including such expenses as transportation, lodging, and meals; total expenses shall not exceed **\$AMOUNT TBD**.

2. To fulfill the public outreach component of the Data Recovery, **NYSDOT** and **FHWA** will develop an interpretive display or exhibit for the purpose of disseminating information obtained through Data Recovery to the public and to the Native American Tribal Nations. The interpretive display or exhibit shall be developed in consultation with the SHPO and the Native American Tribal Nations as follows:
  - a. **NYSDOT** and **FHWA** shall consult with **SHPO**, the **Stockbridge-Munsee Community Band of Mohican Indians**, the **Saint Regis Mohawk Tribe**, and the **Delaware Tribe** to determine the content, format and materials of the interpretive display/exhibit.
  - b. Based on the results of consultation described in 2.a. above, **NYSDOT** will provide to the **SHPO**, the **Stockbridge-Munsee Community Band of Mohican Indians**, the **Saint Regis Mohawk Tribe**, and the **Delaware Tribe**, a draft or mock-up of the proposed interpretive display/exhibit. The draft or mock-up shall be circulated for a 45-day review and comment period.
  - c. After a general approach for construction and composition of the interpretive display/exhibit is accepted among all parties, **NYSDOT** shall provide the final interpretive display or exhibit. One copy of the exhibit shall be provided each to **SHPO**, the **Stockbridge-Munsee Community Band of Mohican Indians**, the **Saint Regis Mohawk Tribe**, and the **Delaware Tribe**.
  - d. The total cost for development and production of the interpretive display/exhibit shall not exceed \$28,500.00 per exhibit; with four identical exhibits to be produced, the projected total cost for development and production of all four interpretive displays/exhibits shall not exceed \$114,000.00.
3. Investigation and documentation shall be conducted in accordance with the current **New York State Education Department's (SED's) Cultural Resource Survey Program Work Scope Specifications for Cultural Resource Investigations for NYSDOT Projects**, which incorporates the **New York Archaeological Council's [NYAC's] "Standards for Cultural Resource Investigations and the Curation of Archaeological Collections in New York State"**, 1994 (NYAC Standards).
4. All archaeological investigations carried out pursuant to this Agreement shall be conducted by or under the direct supervision of a person or persons meeting the Secretary of the Interior's Professional Qualification Standards for Archaeology (36 CFR Part 61).
5. All artifacts, notes, and other documentation of archaeological investigations will be curated according to Federal (36 CFR 79) and State (NYAC Standards) guidelines.
6. In the event that evidence of a human burial is encountered during data recovery, **NYSDOT** shall implement the **SHPO / NY OPRHP Human Remains Discovery Protocol** (attached as Appendix 3), along with established **NYSDOT** procedures. **NYSDOT** shall notify **FHWA** to initiate consultation with the **Saint Regis**

**Mohawk Tribe, the Delaware Tribe, and the Stockbridge-Munsee Community Band of Mohican Indians**, and will proceed in a manner consistent with the **Mohican** "Treatment and Disposition of Human Remains and Cultural Items that May be Discovered Inadvertently during Planned Activities" (attached as Appendix 4). The appropriate treatment and disposition of identified human remains and associated artifacts will be determined by **FHWA** and **NYSDOT** in consultation with **SHPO** and the three Tribal Nations.

7. Any conditions or measures agreed upon to avoid or minimize effects to other historic properties shall be implemented.

#### **TERMS AND CONDITIONS:**

- Modification, amendment, or termination of this agreement as necessary shall be accomplished by the signatories in the same manner as the original agreement.
- Disputes regarding the completion of the terms of this agreement shall be resolved by the signatories. If the signatories cannot agree regarding a dispute, any one of the signatories may request the participation of the Council to assist in resolving the dispute.
- If the Data Recovery Plan is not implemented within six years of the execution of this agreement, it shall be updated and submitted to the **SHPO** for review. Upon the mutual written consent of all signatories, revisions to the Data Recovery Plan shall be adopted and implemented, without necessitating amendments to this agreement.

Execution of this Memorandum of Agreement by **FHWA**, **NYSDOT**, and **SHPO**, and filing with the **Council** as specified in 36 CFR 800.61b(1)(IV) and the implementation of its terms evidence that **FHWA** has taken into account the effects of the project on historic properties.

#### **Required Signatories**

##### **Federal Highway Administration (FHWA):**

Robert Davies, District Engineer, FHWA New York Division

Date

##### **New York State Historic Preservation Officer (SHPO):**

Ruth L. Pierpont, Director, Historic Preservation

Date

#### **Invited Signatory**

##### **New York State Department of Transportation (NYSDOT):**

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Sam Zhou, Acting Regional Director, NYSDOT Region 1

Date

**Concurring Parties** – individual signatures on following pages

DRAFT

**Concurring Parties**

**Stockbridge-Munsee Community Band of Mohican Indians:**

---

Sherry White, Tribal Historic Preservation Officer

Date

DRAFT

**Concurring Parties** (continued)

**Saint Regis Mohawk Tribe:**

---

Arnold L. Printup, Tribal Historic Preservation Officer

Date

DRAFT

**Concurring Parties** (continued)

**Delaware Tribe:**

---

Dr. Brice Obermeyer, Tribal Historic Preservation Officer

Date

DRAFT

**Attachments:**

**Figure 1.** Area of Potential Effects Map.

**Appendix 1. Advisory Council on Historic Preservation's (Council's)**

"Recommended Approach for Consultation on the Recovery of Significant Information from Archaeological Sites"

**Appendix 2. "Phase III Archeological Data Retrieval Plan, The Engel Farm**  
Precontact Archeological Site – A00104.000605, Interstate 87 (I-87) Exit 3/4 Access  
Improvements, PIN 1721.51.121, Town of Colonie, Albany County, New York." Author:  
Corey McQuinn, MA, RPA, Hartgen Archeological Associates, Inc., Rensselaer, NY.  
August 2013.

**Appendix 3. State Historic Preservation Office / New York State Office of Parks,  
Recreation and Historic Preservation, "Human Remains Discovery Protocol"**

**Appendix 4. Stockbridge-Munsee Community Band of Mohican Indians, "Policy for  
Treatment and Disposition of Human Remains and Cultural Items That May be  
Discovered Inadvertently During Planned Activities"**



**Interstate 87 (I-87) Exit 4 Access Improvements  
PIN 1721.51.121  
Agency Correspondence**





U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**New York Division**

January 16, 2014

Leo W. O'Brien Federal Building  
11A Clinton Avenue, Suite 719  
Albany, NY 12207  
518-431-4127  
Fax: 518-431-4121  
New York.FHWA@dot.gov

In Reply Refer To:  
HED-NY

Ms. Naja Duvall-Gabriel  
Historic Preservation Specialist, Office of Planning and Review  
Advisory Council on Historic Preservation  
The Old Post Office Building, Suite 809  
1100 Pennsylvania Avenue, NW  
Washington, DC 20004

Subject: PIN 1721.51 – Interstate 87, Exit 3/4 Airport Access Improvements, Albany  
County: Section 106 Consultation

Dear Ms. Duvall-Gabriel:

In accordance with the provisions of 36 Code of Federal Regulations (CFR) 800.6, we advise you that New York State Department of Transportation (NYSDOT) determined that this undertaking will have an *Adverse Effect* on the National Register eligible Engel Farm Precontact Archaeological Site. The New York State Historic Preservation Officer is in agreement with this determination via their December 9, 2013 letter.

In accordance with article 800.6(a)(1), we are enclosing the documentation specified in article 800.11(e) which includes the letter from the New York State Historic Preservation Office's concurring with the *Adverse Effect* finding, the Finding Documentation, project location maps, and project location photos. Please notify us whether the Council will participate in consultation within 15 days.

If you have any questions, please contact me at (518) 431-8882.

Sincerely,

Omar Elkassed  
Area Engineer

Enclosure: December 4, 2013 Packet

**cc:**

T. Thorne, RCRC, NYSDOT Region 1

A. Becker, NYSDOT Region 1 RCRC

J. Masi, NYSDOT Region 1 PM

A. Trichilo, NYSDOT Region 1 Design

T. Kligerman, NYSDOT Main Office DQAB

M. Santangelo, NYSDOT Main Office, State CRS

P. Dunleavy, NYSDOT Main Office, Environment



U.S. Department  
of Transportation  
**Federal Highway  
Administration**

**New York Division**

January 16, 2014

Leo W. O'Brien Federal Bldg.  
Suite 719  
Albany, NY 12207  
518-431-4127  
518-431-4121 (fax)  
NewYork.fhwa@dot.gov

In Reply Refer To:  
HED-NY

Ms. Tanya Thorne  
Regional Cultural Resource Coordinator, Region 1  
New York State Department of Transportation  
50 Wolf Road  
Albany, NY 12232

Subject: PIN 1721.51 – Interstate 87, Exit 3/4 Airport Access Improvements, Albany  
County: Section 106 Concurrence

Dear Ms. Thorne:

Please reference your letter dated December 4, 2013 requesting our review and confirmation that the referenced project will have an *Adverse Effect* on the National Register eligible Engel Farm Precontact Archaeological Site. We have reviewed the submitted finding documentation, the State Historic Preservation Office's (SHPO) concurrence letter dated December 9, 2013 and supporting documentation.

Based on our review we concur with SHPO that this project will have an *Adverse Effect* on the National Register eligible Engel Farm Precontact Archaeological Site. We have also notified the Advisory Council on Historic Preservation by letter dated January 16 in which NYSDOT was carbon copied.

If you have any questions or concerns, please contact me at 518-431-8882.

Sincerely,

Omar Elkassed  
Area Engineer

cc:

A. Becker, NYSDOT Region 1 RCRC  
J. Masi, NYSDOT Region 1 PM  
A. Trichilo, NYSDOT Region 1 Design  
T. Kligerman, NYSDOT Main Office DQAB  
M. Santangelo, NYSDOT Main Office, State CRS  
P. Dunleavy, NYSDOT Main Office, Environment



## Elkassed, Omar (FHWA)

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**From:** Millington, Tricia (FHWA)  
**Sent:** Thursday, January 16, 2014 1:29 PM  
**To:** Elkassed, Omar (FHWA)  
**Subject:** PIN 1721.51.121 Interstate 87, Exit 3/4

Omar,

The following documents the recent Section 106 consultation with the Saint Regis Mohawk Tribe, the Stockbridge-Munsee Community Band of Mohican Indians and the Delaware Tribe that has occurred for PIN 1721.51.121 Interstate 87, Exit 3/4:

The Findings Document for this project was shared with all three Tribal Nations in December 2013

Prior to making the finding of an Adverse Effect, the NY Division office reached out via phone to all three Tribal Nations to ensure they received the documentation to consult with them on this project.

January 7, 2014 – Phone call to Mr. Arnold Printup, the Saint Regis Mohawk Tribal Historic Preservation Officer

January 7, 2014 – Phone call to Dr. Brice Obermeyer, the Delaware Tribe Historic Preservation Officer

January 7, 2014 – Phone call to Ms. Sherry White, the Stockbridge-Munsee Community Band of Mohican Indians Tribal Historic Preservation Officer

The discussion included the understanding that the preferred alternative is the flyover alternative, which will be further studied in the Environmental Impact Statement. Based upon the information that the NY Division has received, it was shared that the Division believes this alternative will have an “Adverse Effect” upon historic properties. We also discussed that NYSDOT is planning to hold a meeting with NYSHPO, the Saint Regis Mohawk Tribe, the Delaware Tribe and the Stockbridge Munsee Community Band of Mohican Indians to discuss the Data Recovery Plan. Based upon this meeting a draft Memorandum of Agreement and a draft Data Recovery Plan for the finding of the “Adverse Effect” will be developed. We shared that this meeting to be held within the next two months and indicated that the Division would like to proceed with the “Adverse Effect” finding, with the Tribes’ understanding and agreement with the plan to address the mitigation of such effects in the near future.

### Responses:

Mr. Arnold Printup agreed verbally with the finding of an adverse effect and would like to meet to discuss the data recovery plan. Mr. Printup indicated he would follow up the conversation with a written response, but that has not been received to date. A follow up email from the Division to Mr. Printup was sent on January 13, 2014. However, with the verbal discussion and this documentation, we believe we have done our due diligence in consulting with the Saint Regis Mohawk and have a full understanding that they are in agreement with the plan to proceed.

Dr. Brice Obermeyer agreed verbally and followed up with an email that stated. “The Delaware Tribe agrees with the finding of adverse effect and is of the understanding that the project will proceed after mitigation of the adverse effects are considered.”

Ms. Sherry White indicated that she had just returned to the office due to personal family leave and needed time to read the project information. A follow up email was sent to Ms. White on January 13, 2014, along with a phone call from the Division to Ms. White on January 15, 2014. During the phone conversation, Ms. White indicated that she agreed with the finding of an adverse effect and expressed concerns with the mitigation plans. Ms. White indicated that she was interested in traveling to NY to discuss the data recovery plans with FHWA, NYSDOT, NYSHPO and the Tribes. The phone conversation was followed up in writing via an email that stated, “The Mohican Tribe agrees that the

project will have an adverse effect on sites/site of cultural interest to our tribe." The email further described the Tribes concerns about the plans for data recovery and requested a meeting to discuss mitigation/data recovery for the site.

Respectfully submitted,  
Tricia Millington

Tricia Millington, RLA  
Federal Highway Administration  
Leo W. O'Brien Federal Building  
11A Clinton Avenue, Suite 719  
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U.S. Department of Transportation





## New York State Office of Parks, Recreation and Historic Preservation

Division for Historic Preservation  
P.O. Box 189, Waterford, New York 12188-0189  
518-237-8643

Andrew M. Cuomo  
Governor

Rose Harvey  
Commissioner

December 09, 2013

Tanya J. Thorne  
NYSDOT - Region 1  
50 Wolf Road (POD 2-3)  
Albany, New York 12232

Re: FHWA, DOT  
*Revised Finding Documentation: PIN 1721.51.121 Interstate 87, Exit 3/4 Airport Access Improvements, Town of Colonie, Albany County, State of New York*  
**and**  
*Phase IB Archeological Field Reconnaissance: Interstate 87 (I-87) Exit 4 Access Improvements, PIN 1721.51.121, Person Property Wetland Mitigation, Sunset Boulevard, Town of Colonie, Albany County, New York (HAA# 3266-33)*  
07PR05536

Dear Ms. Thorne:

Thank you for requesting the comments of the Office of Parks, Recreation and Historic Preservation (OPRHP). We have reviewed the submitted documents *Revised Finding Documentation: PIN 1721.51.121 Interstate 87, Exit 3/4 Airport Access Improvements, Town of Colonie, Albany County, State of New York*, and the *Phase IB Archeological Field Reconnaissance: Interstate 87 (I-87) Exit 4 Access Improvements, PIN 1721.51.121, Person Property Wetland Mitigation, Sunset Boulevard, Town of Colonie, Albany County, New York (HAA# 3266-33)* received by our office December 9, 2013. We have reviewed the project in accordance with Section 106 of the National Historic Preservation Act of 1966, *as amended*, and its implementing regulations 36 CFR Part 800 – Protection of Historic Properties.

Results of the Phase IB archaeological testing indicate that fill was encountered in tests nearest the commercial complex to the south, and that natural soils were encountered in beneath the fill in most of the tests. A historic dump identified contained largely items from the early to mid-20th century. No contexts or source for the material in the dump was identified and it was determined that no research potential exists for the dump. No further testing is recommended for the dump site.

The Flyover Alternative proposes the construction of ramps supported by embankment fill in the location of the Engel Farm Precontact Archaeological Site. This will cause an unavoidable impact to the Site due to site disturbance from construction. The Flyover Alternative avoids impact to the Wolf-Kemp Cemetery Historic Site.


Ms. Tanya J. Thorne  
December 9, 2013  
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The New York State Department of Transportation has applied the Criteria of Effect for this project and finds that the Flyover Alternative will have an *Adverse Effect* [as per 36 CFR Sec. 800.5(d)(2)] on the Engel Farm Precontact Site, an archaeological site determined eligible for listing on the National Register of Historic Places.

Based upon our review of the submitted information and consultation with your office, our office concurs with the finding of *Adverse Effect* for the proposed undertaking. Our office looks forward to continued consultation with you to develop appropriate mitigation measures for the documented adverse effect. This may include data recovery and a public outreach component. Furthermore, it is our understanding that a Memorandum of Agreement is in development to resolve the adverse effects. We also look forward to working with you to complete this document so as to complete the Section 106 consultation process.

Should you have any questions, please feel free to contact me directly at (518) 237-8643, Extension 3288 or via electronic mail at [Brian.Yates@oprhp.state.ny.us](mailto:Brian.Yates@oprhp.state.ny.us). If further correspondence is required regarding this project, please be sure to refer to the OPRHP Project Review (PR) number noted above.

Sincerely,



Wm. Brian Yates  
Historic Preservation Specialist

cc: Jonathan McDade, FHWA New York Division (*email only*)  
Omar Elkassed, FHWA New York Division (*email only*)  
Peter Dunleavy, NYSDOT Office of the Environment (*email only*)  
Mary Santangelo, NYSDOT Office of the Environment (*email only*)



MEMORANDUM  
Department of Transportation

**TO:** John Masi, Project Manager Highway Design, Region One  
Angelo Trichilo, Design Supervisor, Region One

**FROM:** Michael Novak, Regional Geotechnical Engineer, Region One

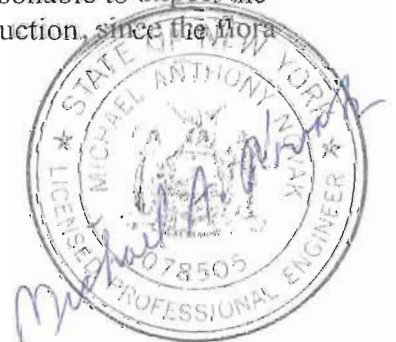
**SUBJECT:** PIN 1721.51  
I-87 Exit 3/4  
Albany County  
Site Evaluation of Proposed Embankment Locations for Ramps A and C

**DATE:** September 18, 2013

As requested on September 17, 2013, Lew Ballantyne and I evaluated the proposed subject embankment locations. After review, I have the following geotechnical comments and recommendations:

- + The subsurface exploration borings progressed to date indicate a majority of the material is Silty SAND with a water table within the top few feet of the soil borings.
- + The archeological area consists of the same flora as the location of the last two soil borings (Sta. RA 34+15.00, 15ft right and Sta. RC 20+45, 3.0 ft Left) (see pictures).
- + It is standard engineering practice to remove organic and flora material before building an embankment. An embankment built on top of organic and flora material continuously settles over time. Since the subsurface exploration borings indicate no organic material with depth, I recommend scarifying and removal of the flora within the limits of the proposed embankment. I estimate that this could disturb the top 1 foot of original ground surface.
- + During our site evaluation, we noticed rutting up to 10 inches deep (see pictures) from the drill rig moving from one drill hole to another. It is reasonable to expect the same rutting would occur in the archeological area during construction, since the flora is the same.

If you have any questions, contact Michael Novak at 782-7233.



MAN:

Attachment

Cc: File